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# State of Utah

DEPARTMENT OF NATURAL RESOURCES  
DIVISION OF OIL, GAS AND MINING

355 West North Temple  
3 Triad Center, Suite 350  
Salt Lake City, Utah 84180-1203  
801-538-5340

April 29, 1992

CERTIFIED RETURN RECEIPT  
P 074 979 227

Mr. Wendell Owen  
Co-Op Mining Company  
P.O. Box 1245  
Huntington, Utah 84528

Dear Mr. Owen:

Re: Proposed Assessments for State Violation Nos. N92-40-1-1, N92-40-2-1, N92-40-5-1, N92-40-6-1, N92-40-9-1, N92-40-10-2, Co-Op Mining Company, Bear Canyon Mine, ACT/015/025, Folder #5, Emery County, Utah

The undersigned has been appointed by the Board of Oil, Gas and Mining as the Assessment Officer for assessing penalties under R645-401.

Enclosed are the proposed civil penalty assessments for the above-referenced violations. The violations were issued by Division Inspector, Hugh Klein on March 12, 1992. Rule R645-401-600 et. sec. has been utilized to formulate the proposed penalties. By these rules, any written information which was submitted by you or your agent, within fifteen (15) days of receipt of the Notice of Violations, have been considered in determining the facts surrounding the violations and the amount of penalties.

Under R645-401-700, there are two informal appeal options available to you:

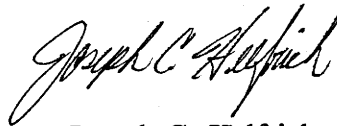
1. If you wish to informally appeal the fact of these violations, you should file a written request for an Informal Conference within 30 days of receipt of this letter. This conference will be conducted by the Division Director. This Informal Conference is distinct from the Assessment Conference regarding the proposed penalties.

Page 2  
Mr. Wendell Owen  
ACT/015/025  
April 29, 1992

2. If you wish to review the proposed penalty assessments, you should file a written request for an Assessment Conference within 30 days of receipt of this letter. If you are also requesting a review of the fact of violation, as noted in paragraph 1, the Assessment Conference will be scheduled immediately following that review.

**If a timely request for review is not made, the fact of violations will stand, the proposed penalty(ies) will become final, and the penalty(ies) will be due and payable within thirty (30) days of the proposed assessment. Please remit payment to the Division, mail c/o Vicki Bailey.**

Sincerely,



Joseph C. Helfrich  
Assessment Officer

jbe  
Enclosure  
cc: Bernie Freeman, OSM

**WORKSHEET FOR ASSESSMENT OF PENALTIES  
UTAH DIVISION OF OIL, GAS AND MINING**

COMPANY/MINE Co-Op Mining Company/Bear Canyon Mine NOV #N92-40-1-1

PERMIT # ACT/015/025 VIOLATION 1 OF 1

ASSESSMENT DATE 04/28/92 ASSESSMENT OFFICER Joseph C. Helfrich

**I. HISTORY MAX 25 PTS**

- A. Are there previous violations which are not pending or vacated, which fall within 1 year of today's date?

ASSESSMENT DATE 04/28/92 EFFECTIVE ONE YEAR TO DATE 04/28/91

PREVIOUS VIOLATIONS	EFFECTIVE DATE	POINTS
<u>N91-26-5-1</u>	<u>11/03/91</u>	<u>1</u>
<u>C91-26-2-1</u>	<u>09/19/91</u>	<u>5</u>
<u>N91-34-2-1</u>	<u>11/24/91</u>	<u>1</u>
<u>N91-26-7-2</u>	<u>11/24/91</u>	<u>2</u>
<u>N91-40-1-1</u>	<u>04/11/92</u>	<u>1</u>
<u>N91 35-8-1</u>	<u>04/11/92</u>	<u>1</u>

1 point for each past violation, up to one year;  
5 points for each past violation in a CO, up to one year;  
No pending notices shall be counted.

**TOTAL HISTORY POINTS** 11

**II. SERIOUSNESS (either A or B)**

NOTE: For assignment of points in Parts II and III, the following applies. Based on the facts supplied by the inspector, the Assessment Officer will determine within which category, the Assessment Officer will adjust the points up or down, utilizing the inspector's and operator's statements as guiding documents.

Is this an Event (A) or Hindrance (B) violation? Event

A. Event Violations Max 45 PTS

1. What is the event which the violated standard was designed to prevent?  
Water Pollution and Protection of the Groundwater Monitoring Program
2. What is the probability of the occurrence of the event which a violated standard was designed to prevent? Unlikely

... PROBABILITY	RANGE
... None	0
... Unlikely	1-9
... Likely	10-19
... Occurred	20

ASSIGN PROBABILITY OF OCCURRENCE POINTS 8

PROVIDE AN EXPLANATION OF POINTS

The inspector's statement revealed that the upper part of the well casing for SBC-3 was cracked. In addition, the well cap had a hole in it and did not provide the proper seal for this particular monitoring well, thus allowing surface water and/or materials to enter the groundwater system.

3. What is the extent of actual or potential damage?

RANGE 0 - 25\*

\*In assigning points, consider the duration and extent of said damage or impact, in terms of area and impact on the public or environment.

ASSIGN DAMAGE POINTS 0

PROVIDE AN EXPLANATION OF POINTS

No damage occurred as a result of the violation.

B. Hindrance Violations MAX 25 PTS

1. Is this a potential or actual hindrance to enforcement? \_\_\_\_\_ RANGE 0 - 25

Assign points based on the extent to which enforcement is actually or potentially hindered by the violation.

ASSIGN HINDRANCE POINTS \_\_\_\_\_

PROVIDE AN EXPLANATION OF POINTS

TOTAL SERIOUSNESS POINTS (A or B) 8

### III. NEGLIGENCE MAX 30 PTS

- A. Was this an inadvertent violation which was unavoidable by the exercise of reasonable care? **IF SO - NO NEGLIGENCE;**  
 OR Was this a failure of a permittee to prevent the occurrence of a violation due to indifference, lack of diligence, or lack of reasonable care, or the failure to abate any violation due to the same? **IF SO - NEGLIGENCE;**  
 OR Was this violation the result of reckless, knowing, or intentional conduct? **IF SO - GREATER DEGREE OF FAULT THAN NEGLIGENCE.**

... No Negligence	0
... Negligence	1-15
... Greater Degree of Fault	16-30

STATE DEGREE OF NEGLIGENCE Ordinary

ASSIGN NEGLIGENCE POINTS 8

PROVIDE AN EXPLANATION OF POINTS

Lack of reasonable care with respect to maintenance of water monitoring structures.

### IV. GOOD FAITH MAX 20 PTS. (EITHER A or B) (Does not apply to violations requiring no abatement measures.)

- A. Did the operator have onsite the resources necessary to achieve compliance of the violated standard within the permit area?  
 ... **IF SO - EASY ABATEMENT**  
 Easy Abatement Situation  
 ... **Immediate Compliance -11 to -20\***  
 ... Immediately following the issuance of the NOV)  
 ... **Rapid Compliance -1 to -10\***  
 ... (Permittee used diligence to abate the violation)  
 ... **Normal Compliance 0**  
 (Operator complied within the abatement period required)  
 (Operator complied with conditions and/or terms of approved Mining and Reclamation Plan)

\* Assign in upper or lower half of range depending on abatement occurring in 1st or 2nd half of abatement period.

- B. Did the permittee not have the resources at hand to achieve compliance OR does the situation require the submission of plans prior to physical activity to achieve compliance?

... IF SO - DIFFICULT ABATEMENT

Difficult Abatement Situation

- ... **Rapid Compliance** -11 to -20\*  
(Permittee used diligence to abate the violation)
- ... **Normal Compliance** -1 to -10\*  
(Operator complied within the abatement period required)
- ... **Extended Compliance** 0  
(Permittee took minimal actions for abatement to stay within the limits of the NOV or the violated standard, or the plan submitted for abatement was incomplete)  
(Permittee complied with conditions and/or terms of approved Mining and Reclamation Plan)

EASY OR DIFFICULT ABATEMENT? \_\_\_\_\_ ASSIGN GOOD FAITH POINTS -5

PROVIDE AN EXPLANATION OF POINTS

The permittee complied within the second half of the abatement period.

V. ASSESSMENT SUMMARY FOR N92-40-1-1

I.	TOTAL HISTORY POINTS	<u>11</u>
II.	TOTAL SERIOUSNESS POINTS	<u>8</u>
III.	TOTAL NEGLIGENCE POINTS	<u>8</u>
IV.	TOTAL GOOD FAITH POINTS	<u>-5</u>
	TOTAL ASSESSED POINTS	<u>22</u>
	TOTAL ASSESSED FINE	<u>\$ 240.00</u>

jbe

**WORKSHEET FOR ASSESSMENT OF PENALTIES  
UTAH DIVISION OF OIL, GAS AND MINING**

COMPANY/MINE Co-Op Mining Company/Bear Canyon MineNOV #N92-40-2-1PERMIT # ACT/015/025VIOLATION 1 OF 1ASSESSMENT DATE 04/28/92ASSESSMENT OFFICER Joseph C. Helfrich**I. HISTORY MAX 25 PTS**

- A. Are there previous violations which are not pending or vacated, which fall within 1 year of today's date?

ASSESSMENT DATE 04/28/92EFFECTIVE ONE YEAR TO DATE 04/28/91

PREVIOUS VIOLATIONS	EFFECTIVE DATE	POINTS
<u>N91-26-5-1</u>	<u>11/03/91</u>	<u>1</u>
<u>C91-26-2-1</u>	<u>09/19/91</u>	<u>5</u>
<u>N91-34-2-1</u>	<u>11/24/91</u>	<u>1</u>
<u>N91-26-7-2</u>	<u>11/24/91</u>	<u>2</u>
<u>N91-40-1-1</u>	<u>04/11/92</u>	<u>1</u>
<u>N91 35-8-1</u>	<u>04/11/92</u>	<u>1</u>

1 point for each past violation, up to one year;  
5 points for each past violation in a CO, up to one year;  
No pending notices shall be counted.

TOTAL HISTORY POINTS 11**II. SERIOUSNESS (either A or B)**

NOTE: For assignment of points in Parts II and III, the following applies. Based on the facts supplied by the inspector, the Assessment Officer will determine within which category, the Assessment Officer will adjust the points up or down, utilizing the inspector's and operator's statements as guiding documents.

Is this an Event (A) or Hindrance (B) violation? Hindrance

**A. Event Violations Max 45 PTS**

1. What is the event which the violated standard was designed to prevent? \_\_\_\_\_
2. What is the probability of the occurrence of the event which a violated standard was designed to prevent? \_\_\_\_\_

... PROBABILITY	RANGE
... None	0
... Unlikely	1-9
... Likely	10-19
... Occurred	20

**ASSIGN PROBABILITY OF OCCURRENCE POINTS \_\_\_\_\_**

**PROVIDE AN EXPLANATION OF POINTS**

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3. What is the extent of actual or potential damage?

**RANGE 0 - 25\***

\*In assigning points, consider the duration and extent of said damage or impact, in terms of area and impact on the public or environment.

**ASSIGN DAMAGE POINTS \_\_\_\_\_**

**PROVIDE AN EXPLANATION OF POINTS**

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**B. Hindrance Violations MAX 25 PTS**

1. Is this a potential or actual hindrance to enforcement? Actual  
**RANGE 0 - 25**

Assign points based on the extent to which enforcement is actually or potentially hindered by the violation.

**ASSIGN HINDRANCE POINTS 20**

**PROVIDE AN EXPLANATION OF POINTS**

The inspector's statement revealed that due to the fact that the road maps do not provide proper detailed descriptions and specifications of roads, it was impossible to check on-the-ground compliance with the design specifications.

**TOTAL SERIOUSNESS POINTS (A or B) 20**



**III. NEGLIGENCE MAX 30 PTS**

- A. Was this an inadvertent violation which was unavoidable by the exercise of reasonable care? **IF SO - NO NEGLIGENCE;**  
 OR Was this a failure of a permittee to prevent the occurrence of a violation due to indifference, lack of diligence, or lack of reasonable care, or the failure to abate any violation due to the same? **IF SO - NEGLIGENCE;**  
 OR Was this violation the result of reckless, knowing, or intentional conduct? **IF SO - GREATER DEGREE OF FAULT THAN NEGLIGENCE.**

... No Negligence	0
... Negligence	1-15
... Greater Degree of Fault	16-30

STATE DEGREE OF NEGLIGENCE Ordinary

ASSIGN NEGLIGENCE POINTS 8

PROVIDE AN EXPLANATION OF POINTS

Lack of reasonable care with respect to regulation requirements.

**IV. GOOD FAITH MAX 20 PTS. (EITHER A or B) (Does not apply to violations requiring no abatement measures.)**

- A. Did the operator have onsite the resources necessary to achieve compliance of the violated standard within the permit area?  
 ... **IF SO - EASY ABATEMENT**  
 Easy Abatement Situation  
 ... **Immediate Compliance -11 to -20\***  
 ... Immediately following the issuance of the NOV)  
 ... **Rapid Compliance -1 to -10\***  
 ... (Permittee used diligence to abate the violation)  
 ... **Normal Compliance 0**  
 (Operator complied within the abatement period required)  
 (Operator complied with conditions and/or terms of approved Mining and Reclamation Plan)

\* Assign in upper or lower half of range depending on abatement occurring in 1st or 2nd half of abatement period.

- B. Did the permittee not have the resources at hand to achieve compliance OR does the situation require the submission of plans prior to physical activity to achieve compliance?

... IF SO - DIFFICULT ABATEMENT

Difficult Abatement Situation

- ... **Rapid Compliance** -11 to -20\*  
(Permittee used diligence to abate the violation)
- ... **Normal Compliance** -1 to -10\*  
(Operator complied within the abatement period required)
- ... **Extended Compliance** 0  
(Permittee took minimal actions for abatement to stay within the limits of the NOV or the violated standard, or the plan submitted for abatement was incomplete)  
(Permittee complied with conditions and/or terms of approved Mining and Reclamation Plan)

EASY OR DIFFICULT ABATEMENT? \_\_\_\_\_ ASSIGN GOOD FAITH POINTS -0

PROVIDE AN EXPLANATION OF POINTS

To be evaluated upon termination of the violation

V. ASSESSMENT SUMMARY FOR N92-40-2-1

I.	TOTAL HISTORY POINTS	<u>11</u>
II.	TOTAL SERIOUSNESS POINTS	<u>20</u>
III.	TOTAL NEGLIGENCE POINTS	<u>8</u>
IV.	TOTAL GOOD FAITH POINTS	<u>-0</u>
	TOTAL ASSESSED POINTS	<u>39</u>
	TOTAL ASSESSED FINE	<u>\$ 580.00</u>

jbe

**WORKSHEET FOR ASSESSMENT OF PENALTIES  
UTAH DIVISION OF OIL, GAS AND MINING**

COMPANY/MINE Co-Op Mining Company/Bear Canyon Mine NOV #N92-40-9-1

PERMIT # ACT/015/025 VIOLATION 1 OF 1

ASSESSMENT DATE 04/28/92 ASSESSMENT OFFICER Joseph C. Helfrich

**I. HISTORY MAX 25 PTS**

- A. Are there previous violations which are not pending or vacated, which fall within 1 year of today's date?

ASSESSMENT DATE 04/28/92 EFFECTIVE ONE YEAR TO DATE 04/28/91

PREVIOUS VIOLATIONS	EFFECTIVE DATE	POINTS
<u>N91-26-5-1</u>	<u>11/03/91</u>	<u>1</u>
<u>C91-26-2-1</u>	<u>09/19/91</u>	<u>5</u>
<u>N91-34-2-1</u>	<u>11/24/91</u>	<u>1</u>
<u>N91-26-7-2</u>	<u>11/24/91</u>	<u>2</u>
<u>N91-40-1-1</u>	<u>04/11/92</u>	<u>1</u>
<u>N91 35-8-1</u>	<u>04/11/92</u>	<u>1</u>

1 point for each past violation, up to one year;  
5 points for each past violation in a CO, up to one year;  
No pending notices shall be counted.

**TOTAL HISTORY POINTS** 11

**II. SERIOUSNESS (either A or B)**

**NOTE:** For assignment of points in Parts II and III, the following applies. Based on the facts supplied by the inspector, the Assessment Officer will determine within which category, the Assessment Officer will adjust the points up or down, utilizing the inspector's and operator's statements as guiding documents.

Is this an Event (A) or Hindrance (B) violation? Event

**A. Event Violations    Max 45 PTS**

1. What is the event which the violated standard was designed to prevent?  
Activity outside the approved permit area and environmental harm.
2. What is the probability of the occurrence of the event which a violated standard was designed to prevent? Occurred

... PROBABILITY	RANGE
... None	0
... Unlikely	1-9
... Likely	10-19
... Occurred	20

**ASSIGN PROBABILITY OF OCCURRENCE POINTS    20****PROVIDE AN EXPLANATION OF POINTS**

An unpermitted silt fence exists off site and is filled with sediment. It is also evident that this silt fence has been cleaned out before and the deposits have been heaped up on a bank of the drainage. This is an abnormal deposition pattern and should not be occurring in such a way and in such a place. The environmental harm may be more appropriately categorized as off site sediment deposition.

3. What is the extent of actual or potential damage?

RANGE    0 - 25\*

\*In assigning points, consider the duration and extent of said damage or impact, in terms of area and impact on the public or environment.

**ASSIGN DAMAGE POINTS    12****PROVIDE AN EXPLANATION OF POINTS**

The silt fence had filled an area of approximately 20 sq. feet and a depth of 2 to 3 feet. The adjacent cleanout may have filled roughly 10 to 15 sq. feet and a depth of about 2 feet. The damage would have continued had it been unnoticed.

**B. Hindrance Violations    MAX 25 PTS**

1. Is this a potential or actual hindrance to enforcement? \_\_\_\_\_  
RANGE    0 - 25

Assign points based on the extent to which enforcement is actually or potentially hindered by the violation.

ASSIGN HINDRANCE POINTS \_\_\_\_\_

PROVIDE AN EXPLANATION OF POINTS

TOTAL SERIOUSNESS POINTS (A or B) 32

**III. NEGLIGENCE MAX 30 PTS**

- A. Was this an inadvertent violation which was unavoidable by the exercise of reasonable care? **IF SO - NO NEGLIGENCE;**  
 OR Was this a failure of a permittee to prevent the occurrence of a violation due to indifference, lack of diligence, or lack of reasonable care, or the failure to abate any violation due to the same? **IF SO - NEGLIGENCE;**  
 OR Was this violation the result of reckless, knowing, or intentional conduct? **IF SO - GREATER DEGREE OF FAULT THAN NEGLIGENCE.**

... No Negligence	0
... Negligence	1-15
... Greater Degree of Fault	16-30

STATE DEGREE OF NEGLIGENCE Ordinary

ASSIGN NEGLIGENCE POINTS 15

PROVIDE AN EXPLANATION OF POINTS

The violation is a direct result of operating outside the permitted area. Had the permittee been operating in accordance with the approved plan and adhered to conducting activities only within those areas permitted, this violation perhaps would not have occurred.

**IV. GOOD FAITH MAX 20 PTS. (EITHER A or B) (Does not apply to violations requiring no abatement measures.)**

- A. Did the operator have onsite the resources necessary to achieve compliance of the violated standard within the permit area?  
 ... **IF SO - EASY ABATEMENT**  
 Easy Abatement Situation  
 ... **Immediate Compliance -11 to -20\***  
 ... Immediately following the issuance of the NOV)  
 ... **Rapid Compliance -1 to -10\***  
 ... (Permittee used diligence to abate the violation)

- ... **Normal Compliance**                      **0**  
 (Operator complied within the abatement period required)  
 (Operator complied with conditions and/or terms of approved Mining and Reclamation Plan)

\* Assign in upper or lower half of range depending on abatement occurring in 1st or 2nd half of abatement period.

- B. Did the permittee not have the resources at hand to achieve compliance OR does the situation require the submission of plans prior to physical activity to achieve compliance?

... **IF SO - DIFFICULT ABATEMENT**

Difficult Abatement Situation

- ... **Rapid Compliance**                      **-11 to -20\***  
 ... (Permittee used diligence to abate the violation)  
 ... **Normal Compliance**                      **-1 to -10\***  
 ... (Operator complied within the abatement period required)  
 ... **Extended Compliance**                      **0**  
 (Permittee took minimal actions for abatement to stay within the limits of the NOV or the violated standard, or the plan submitted for abatement was incomplete)  
 (Permittee complied with conditions and/or terms of approved Mining and Reclamation Plan)

EASY OR DIFFICULT ABATEMENT? \_\_\_\_\_ **ASSIGN GOOD FAITH POINTS** -0

PROVIDE AN EXPLANATION OF POINTS

To be evaluated upon termination of the violation

V. **ASSESSMENT SUMMARY FOR**      N92-40-9-1

I.	TOTAL HISTORY POINTS	<u>11</u>
II.	TOTAL SERIOUSNESS POINTS	<u>32</u>
III.	TOTAL NEGLIGENCE POINTS	<u>15</u>
IV.	TOTAL GOOD FAITH POINTS	<u>-0</u>
	TOTAL ASSESSED POINTS	<u>58</u>
	TOTAL ASSESSED FINE	<u>\$ 1320.00</u>

**WORKSHEET FOR ASSESSMENT OF PENALTIES  
UTAH DIVISION OF OIL, GAS AND MINING**

COMPANY/MINE Co-Op Mining Company/Bear Canyon Mine NOV #N92-40-10-2

PERMIT # ACT/015/025 VIOLATION 1 OF 2

ASSESSMENT DATE 04/28/92 ASSESSMENT OFFICER Joseph C. Helfrich

**I. HISTORY MAX 25 PTS**

- A. Are there previous violations which are not pending or vacated, which fall within 1 year of today's date?

ASSESSMENT DATE 04/28/92 EFFECTIVE ONE YEAR TO DATE 04/28/91

PREVIOUS VIOLATIONS	EFFECTIVE DATE	POINTS
<u>N91-26-5-1</u>	<u>11/03/91</u>	<u>1</u>
<u>C91-26-2-1</u>	<u>09/19/91</u>	<u>5</u>
<u>N91-34-2-1</u>	<u>11/24/91</u>	<u>1</u>
<u>N91-26-7-2</u>	<u>11/24/91</u>	<u>2</u>
<u>N91-40-1-1</u>	<u>04/11/92</u>	<u>1</u>
<u>N91 35-8-1</u>	<u>04/11/92</u>	<u>1</u>

1 point for each past violation, up to one year;  
5 points for each past violation in a CO, up to one year;  
No pending notices shall be counted.

**TOTAL HISTORY POINTS** 11

**II. SERIOUSNESS (either A or B)**

**NOTE:** For assignment of points in Parts II and III, the following applies. Based on the facts supplied by the inspector, the Assessment Officer will determine within which category, the Assessment Officer will adjust the points up or down, utilizing the inspector's and operator's statements as guiding documents.

Is this an Event (A) or Hindrance (B) violation? Hindrance

**A. Event Violations Max 45 PTS**

1. What is the event which the violated standard was designed to prevent? \_\_\_\_\_
2. What is the probability of the occurrence of the event which a violated standard was designed to prevent? \_\_\_\_\_

... PROBABILITY	RANGE
... None	0
... Unlikely	1-9
... Likely	10-19
... Occurred	20

**ASSIGN PROBABILITY OF OCCURRENCE POINTS \_\_\_\_\_**

**PROVIDE AN EXPLANATION OF POINTS**

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3. What is the extent of actual or potential damage?

**RANGE 0 - 25\***

\*In assigning points, consider the duration and extent of said damage or impact, in terms of area and impact on the public or environment.

**ASSIGN DAMAGE POINTS \_\_\_\_\_**

**PROVIDE AN EXPLANATION OF POINTS**

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**B. Hindrance Violations MAX 25 PTS**

1. Is this a potential or actual hindrance to enforcement? Actual  
**RANGE 0 - 25**

Assign points based on the extent to which enforcement is actually or potentially hindered by the violation.

**ASSIGN HINDRANCE POINTS 15**

**PROVIDE AN EXPLANATION OF POINTS**

The map certified was inaccurate as it did not reflect on the ground conditions. Sediment Pond B has a decent device, but this was not identified on the asbuilt map.

**TOTAL SERIOUSNESS POINTS (A or B) 15**



**III. NEGLIGENCE MAX 30 PTS**

- A. Was this an inadvertent violation which was unavoidable by the exercise of reasonable care? **IF SO - NO NEGLIGENCE;**  
 OR Was this a failure of a permittee to prevent the occurrence of a violation due to indifference, lack of diligence, or lack of reasonable care, or the failure to abate any violation due to the same? **IF SO - NEGLIGENCE;**  
 OR Was this violation the result of reckless, knowing, or intentional conduct? **IF SO - GREATER DEGREE OF FAULT THAN NEGLIGENCE.**

... No Negligence	0
... Negligence	1-15
... Greater Degree of Fault	16-30

STATE DEGREE OF NEGLIGENCE Ordinary

ASSIGN NEGLIGENCE POINTS 8

PROVIDE AN EXPLANATION OF POINTS

Lack of reasonable care in that the map should have been checked to be accurate and to be in compliance with all pertinent regulations prior to being certified and submitted to the Division.

**IV. GOOD FAITH MAX 20 PTS. (EITHER A or B) (Does not apply to violations requiring no abatement measures.)**

- A. Did the operator have onsite the resources necessary to achieve compliance of the violated standard within the permit area?  
 ... **IF SO - EASY ABATEMENT**  
 Easy Abatement Situation  
 ... **Immediate Compliance -11 to -20\***  
 ... Immediately following the issuance of the NOV)  
 ... **Rapid Compliance -1 to -10\***  
 ... (Permittee used diligence to abate the violation)  
 ... **Normal Compliance 0**  
 (Operator complied within the abatement period required)  
 (Operator complied with conditions and/or terms of approved Mining and Reclamation Plan)

\* Assign in upper or lower half of range depending on abatement occurring in 1st or 2nd half of abatement period.

- B. Did the permittee not have the resources at hand to achieve compliance OR does the situation require the submission of plans prior to physical activity to achieve compliance?

... IF SO - DIFFICULT ABATEMENT

Difficult Abatement Situation

- ... **Rapid Compliance** -11 to -20\*  
(Permittee used diligence to abate the violation)
- ... **Normal Compliance** -1 to -10\*  
(Operator complied within the abatement period required)
- ... **Extended Compliance** 0  
(Permittee took minimal actions for abatement to stay within the limits of the NOV or the violated standard, or the plan submitted for abatement was incomplete)  
(Permittee complied with conditions and/or terms of approved Mining and Reclamation Plan)

EASY OR DIFFICULT ABATEMENT? \_\_\_\_\_ ASSIGN GOOD FAITH POINTS -5

PROVIDE AN EXPLANATION OF POINTS

The permittee exercised diligence in abating the violation.

V. ASSESSMENT SUMMARY FOR N92-40-10-2 1/2

I.	TOTAL HISTORY POINTS	<u>11</u>
II.	TOTAL SERIOUSNESS POINTS	<u>15</u>
III.	TOTAL NEGLIGENCE POINTS	<u>8</u>
IV.	TOTAL GOOD FAITH POINTS	<u>-5</u>
	TOTAL ASSESSED POINTS	<u>29</u>
	TOTAL ASSESSED FINE	<u>\$ 380.00</u>

jbe

**WORKSHEET FOR ASSESSMENT OF PENALTIES  
UTAH DIVISION OF OIL, GAS AND MINING**

COMPANY/MINE Co-Op Mining Company/Bear Canyon Mine NOV #N92-40-10-2

PERMIT # ACT/015/025 VIOLATION 2 OF 2

ASSESSMENT DATE 04/28/92 ASSESSMENT OFFICER Joseph C. Helfrich

**I. HISTORY MAX 25 PTS**

- A. Are there previous violations which are not pending or vacated, which fall within 1 year of today's date?

ASSESSMENT DATE 04/28/92 EFFECTIVE ONE YEAR TO DATE 04/28/91

PREVIOUS VIOLATIONS	EFFECTIVE DATE	POINTS
<u>N91-26-5-1</u>	<u>11/03/91</u>	<u>1</u>
<u>C91-26-2-1</u>	<u>09/19/91</u>	<u>5</u>
<u>N91-34-2-1</u>	<u>11/24/91</u>	<u>1</u>
<u>N91-26-7-2</u>	<u>11/24/91</u>	<u>2</u>
<u>N91-40-1-1</u>	<u>04/11/92</u>	<u>1</u>
<u>N91 35-8-1</u>	<u>04/11/92</u>	<u>1</u>

1 point for each past violation, up to one year;  
5 points for each past violation in a CO, up to one year;  
No pending notices shall be counted.

TOTAL HISTORY POINTS 11

**II. SERIOUSNESS (either A or B)**

NOTE: For assignment of points in Parts II and III, the following applies. Based on the facts supplied by the inspector, the Assessment Officer will determine within which category, the Assessment Officer will adjust the points up or down, utilizing the inspector's and operator's statements as guiding documents.

Is this an Event (A) or Hindrance (B) violation? Hindrance

**A. Event Violations Max 45 PTS**

1. What is the event which the violated standard was designed to prevent? \_\_\_\_\_
2. What is the probability of the occurrence of the event which a violated standard was designed to prevent? \_\_\_\_\_

... PROBABILITY	RANGE
... None	0
... Unlikely	1-9
... Likely	10-19
... Occurred	20

**ASSIGN PROBABILITY OF OCCURRENCE POINTS \_\_\_\_\_**

**PROVIDE AN EXPLANATION OF POINTS**

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3. What is the extent of actual or potential damage?

**RANGE 0 - 25\***

\*In assigning points, consider the duration and extent of said damage or impact, in terms of area and impact on the public or environment.

**ASSIGN DAMAGE POINTS \_\_\_\_\_**

**PROVIDE AN EXPLANATION OF POINTS**

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**B. Hindrance Violations MAX 25 PTS**

1. Is this a potential or actual hindrance to enforcement? Actual  
**RANGE 0 - 25**

Assign points based on the extent to which enforcement is actually or potentially hindered by the violation.

**ASSIGN HINDRANCE POINTS 15**

**PROVIDE AN EXPLANATION OF POINTS**

Parts of the map were not to scale as specified which, in turn, calls into question the validity of the map itself. Given this, it was impossible to inspect the plan against site conditions according to the inspector.

**TOTAL SERIOUSNESS POINTS (A or B) 15**

**III. NEGLIGENCE MAX 30 PTS**

- A. Was this an inadvertent violation which was unavoidable by the exercise of reasonable care? **IF SO - NO NEGLIGENCE;**  
 OR Was this a failure of a permittee to prevent the occurrence of a violation due to indifference, lack of diligence, or lack of reasonable care, or the failure to abate any violation due to the same? **IF SO - NEGLIGENCE;**  
 OR Was this violation the result of reckless, knowing, or intentional conduct? **IF SO - GREATER DEGREE OF FAULT THAN NEGLIGENCE.**

... No Negligence	0
... Negligence	1-15
... Greater Degree of Fault	16-30

STATE DEGREE OF NEGLIGENCE Ordinary

ASSIGN NEGLIGENCE POINTS 8

PROVIDE AN EXPLANATION OF POINTS

Lack of reasonable care in that the map should have been proofed and checked against site conditions prior to being certified.

**IV. GOOD FAITH MAX 20 PTS. (EITHER A or B) (Does not apply to violations requiring no abatement measures.)**

- A. Did the operator have onsite the resources necessary to achieve compliance of the violated standard within the permit area?  
 ... **IF SO - EASY ABATEMENT**  
 Easy Abatement Situation
- |   |             |
|---|-------------|
| ... Immediate Compliance                              | -11 to -20* |
| ... Immediately following the issuance of the NOV)    |             |
| ... Rapid Compliance                                  | -1 to -10*  |
| ... (Permittee used diligence to abate the violation) |             |
| ... Normal Compliance                                 | 0           |
- (Operator complied within the abatement period required)  
 (Operator complied with conditions and/or terms of approved Mining and Reclamation Plan)

\* Assign in upper or lower half of range depending on abatement occurring in 1st or 2nd half of abatement period.

- B. Did the permittee not have the resources at hand to achieve compliance OR does the situation require the submission of plans prior to physical activity to achieve compliance?

... IF SO - DIFFICULT ABATEMENT

Difficult Abatement Situation

- ... **Rapid Compliance** -11 to -20\*  
(Permittee used diligence to abate the violation)
- ... **Normal Compliance** -1 to -10\*  
(Operator complied within the abatement period required)
- ... **Extended Compliance** 0  
(Permittee took minimal actions for abatement to stay within the limits of the NOV or the violated standard, or the plan submitted for abatement was incomplete)  
(Permittee complied with conditions and/or terms of approved Mining and Reclamation Plan)

EASY OR DIFFICULT ABATEMENT? \_\_\_\_\_ ASSIGN GOOD FAITH POINTS -5

PROVIDE AN EXPLANATION OF POINTS

To be evaluated upon termination of the violation.

V. ASSESSMENT SUMMARY FOR N92-40-10-2 2/2

I.	TOTAL HISTORY POINTS	<u>11</u>
II.	TOTAL SERIOUSNESS POINTS	<u>15</u>
III.	TOTAL NEGLIGENCE POINTS	<u>8</u>
IV.	TOTAL GOOD FAITH POINTS	<u>-0</u>
	TOTAL ASSESSED POINTS	<u>34</u>
	TOTAL ASSESSED FINE	<u>\$ 480.00</u>

jbe

**WORKSHEET FOR ASSESSMENT OF PENALTIES  
UTAH DIVISION OF OIL, GAS AND MINING**

COMPANY/MINE Co-Op Mining Company/Bear Canyon MineNOV #N92-40-5-1PERMIT # ACT/015/025VIOLATION 1 OF 1ASSESSMENT DATE 04/28/92ASSESSMENT OFFICER Joseph C. Helfrich**I. HISTORY MAX 25 PTS**

- A. Are there previous violations which are not pending or vacated, which fall within 1 year of today's date?

ASSESSMENT DATE 04/28/92EFFECTIVE ONE YEAR TO DATE 04/28/91

PREVIOUS VIOLATIONS	EFFECTIVE DATE	POINTS
<u>N91-26-5-1</u>	<u>11/03/91</u>	<u>1</u>
<u>C91-26-2-1</u>	<u>09/19/91</u>	<u>5</u>
<u>N91-34-2-1</u>	<u>11/24/91</u>	<u>1</u>
<u>N91-26-7-2</u>	<u>11/24/91</u>	<u>2</u>
<u>N91-40-1-1</u>	<u>04/11/92</u>	<u>1</u>
<u>N91 35-8-1</u>	<u>04/11/92</u>	<u>1</u>

1 point for each past violation, up to one year;  
5 points for each past violation in a CO, up to one year;  
No pending notices shall be counted.

TOTAL HISTORY POINTS 11**II. SERIOUSNESS (either A or B)**

NOTE: For assignment of points in Parts II and III, the following applies. Based on the facts supplied by the inspector, the Assessment Officer will determine within which category, the Assessment Officer will adjust the points up or down, utilizing the inspector's and operator's statements as guiding documents.

Is this an Event (A) or Hindrance (B) violation? Event

**A. Event Violations Max 45 PTS**

1. What is the event which the violated standard was designed to prevent?  
Loss of Reclamation/Revegetation Potential
2. What is the probability of the occurrence of the event which a violated standard was designed to prevent? Occurred

... PROBABILITY	RANGE
... None	0
... Unlikely	1-9
... Likely	10-19
... Occurred	20

**ASSIGN PROBABILITY OF OCCURRENCE POINTS 20**

PROVIDE AN EXPLANATION OF POINTS

The inspector's statement revealed that the topsoil pile was not being protected from wind and water erosion as specified in the plan. The plan outlined the construction of a berm to protect from erosion and the berm was not completely in tact around the base perimeter of the topsoil pile. Actual volume of loss could not be determined.

3. What is the extent of actual or potential damage?

RANGE 0 - 25\*

\*In assigning points, consider the duration and extent of said damage or impact, in terms of area and impact on the public or environment.

**ASSIGN DAMAGE POINTS 0**

PROVIDE AN EXPLANATION OF POINTS

No damage occurred as a result of the violation.

**B. Hindrance Violations MAX 25 PTS**

1. Is this a potential or actual hindrance to enforcement? \_\_\_\_\_

RANGE 0 - 25

Assign points based on the extent to which enforcement is actually or potentially hindered by the violation.

**ASSIGN HINDRANCE POINTS \_\_\_\_\_**

PROVIDE AN EXPLANATION OF POINTS



**TOTAL SERIOUSNESS POINTS (A or B) 20**

**III. NEGLIGENCE MAX 30 PTS**

- A. Was this an inadvertent violation which was unavoidable by the exercise of reasonable care? **IF SO - NO NEGLIGENCE;**  
 OR Was this a failure of a permittee to prevent the occurrence of a violation due to indifference, lack of diligence, or lack of reasonable care, or the failure to abate any violation due to the same? **IF SO - NEGLIGENCE;**  
 OR Was this violation the result of reckless, knowing, or intentional conduct? **IF SO - GREATER DEGREE OF FAULT THAN NEGLIGENCE.**

... No Negligence	0
... Negligence	1-15
... Greater Degree of Fault	16-30

STATE DEGREE OF NEGLIGENCE Ordinary

**ASSIGN NEGLIGENCE POINTS 8**

**PROVIDE AN EXPLANATION OF POINTS**

Lack of reasonable care with respect due to the fact that the operator had not fulfilled responsibilities to protect that topsoil pile from wind and water erosion. Had the plan within the permit been followed, this perhaps would not have occurred.

**IV. GOOD FAITH MAX 20 PTS. (EITHER A or B) (Does not apply to violations requiring no abatement measures.)**

- A. Did the operator have onsite the resources necessary to achieve compliance of the violated standard within the permit area?  
 ... **IF SO - EASY ABATEMENT**  
 Easy Abatement Situation
- |  |             |
|--|-------------|
| ... Immediate Compliance                                 | -11 to -20* |
| ... Immediately following the issuance of the NOV)       |             |
| ... Rapid Compliance                                     | -1 to -10*  |
| ... (Permittee used diligence to abate the violation)    |             |
| ... Normal Compliance                                    | 0           |
| (Operator complied within the abatement period required) |             |

(Operator complied with conditions and/or terms of approved Mining and Reclamation Plan)

\* Assign in upper or lower half of range depending on abatement occurring in 1st or 2nd half of abatement period.

- B. Did the permittee not have the resources at hand to achieve compliance OR does the situation require the submission of plans prior to physical activity to achieve compliance?

... IF SO - DIFFICULT ABATEMENT

Difficult Abatement Situation

... **Rapid Compliance** -11 to -20\*

... (Permittee used diligence to abate the violation)

... **Normal Compliance** -1 to -10\*

... (Operator complied within the abatement period required)

... **Extended Compliance** 0

(Permittee took minimal actions for abatement to stay within the limits of the NOV or the violated standard, or the plan submitted for abatement was incomplete)

(Permittee complied with conditions and/or terms of approved Mining and Reclamation Plan)

EASY OR DIFFICULT ABATEMENT? \_\_\_\_ ASSIGN GOOD FAITH POINTS -10

PROVIDE AN EXPLANATION OF POINTS

Permittee exercised diligence in abating the violation

V. **ASSESSMENT SUMMARY FOR** N92-40-5-1

I.	TOTAL HISTORY POINTS	<u>11</u>
II.	TOTAL SERIOUSNESS POINTS	<u>20</u>
III.	TOTAL NEGLIGENCE POINTS	<u>8</u>
IV.	TOTAL GOOD FAITH POINTS	<u>-10</u>

TOTAL ASSESSED POINTS 29

TOTAL ASSESSED FINE \$ 380.00

**WORKSHEET FOR ASSESSMENT OF PENALTIES  
UTAH DIVISION OF OIL, GAS AND MINING**

COMPANY/MINE Co-Op Mining Company/Bear Canyon MineNOV #N92-40-6-1PERMIT # ACT/015/025VIOLATION 1 OF 1ASSESSMENT DATE 04/28/92ASSESSMENT OFFICER Joseph C. Helfrich**I. HISTORY MAX 25 PTS**

- A. Are there previous violations which are not pending or vacated, which fall within 1 year of today's date?

ASSESSMENT DATE 04/28/92EFFECTIVE ONE YEAR TO DATE 04/28/91

PREVIOUS VIOLATIONS	EFFECTIVE DATE	POINTS
<u>N91-26-5-1</u>	<u>11/03/91</u>	<u>1</u>
<u>C91-26-2-1</u>	<u>09/19/91</u>	<u>5</u>
<u>N91-34-2-1</u>	<u>11/24/91</u>	<u>1</u>
<u>N91-26-7-2</u>	<u>11/24/91</u>	<u>2</u>
<u>N91-40-1-1</u>	<u>04/11/92</u>	<u>1</u>
<u>N91 35-8-1</u>	<u>04/11/92</u>	<u>1</u>

1 point for each past violation, up to one year;  
5 points for each past violation in a CO, up to one year;  
No pending notices shall be counted.

TOTAL HISTORY POINTS 11**II. SERIOUSNESS (either A or B)**

NOTE: For assignment of points in Parts II and III, the following applies. Based on the facts supplied by the inspector, the Assessment Officer will determine within which category, the Assessment Officer will adjust the points up or down, utilizing the inspector's and operator's statements as guiding documents.

Is this an Event (A) or Hindrance (B) violation? Event

**A. Event Violations Max 45 PTS**

1. What is the event which the violated standard was designed to prevent?  
Creating disturbances and operating on lands designated as undisturbed, potentially causing environmental harm.
2. What is the probability of the occurrence of the event which a violated standard was designed to prevent? Unlikely

... PROBABILITY	RANGE
... None	0
... Unlikely	1-9
... Likely	10-19
... Occurred	20

**ASSIGN PROBABILITY OF OCCURRENCE POINTS** 6

PROVIDE AN EXPLANATION OF POINTS

It is unlikely that environmental harm would occur as a result of this violation.

3. What is the extent of actual or potential damage?

RANGE 0 - 25\*

\*In assigning points, consider the duration and extent of said damage or impact, in terms of area and impact on the public or environment.

**ASSIGN DAMAGE POINTS** 0

PROVIDE AN EXPLANATION OF POINTS

No damage occurred as a result of the violation.

**B. Hindrance Violations MAX 25 PTS**

1. Is this a potential or actual hindrance to enforcement? \_\_\_\_\_

RANGE 0 - 25

Assign points based on the extent to which enforcement is actually or potentially hindered by the violation.

**ASSIGN HINDRANCE POINTS** \_\_\_\_\_

PROVIDE AN EXPLANATION OF POINTS

**TOTAL SERIOUSNESS POINTS (A or B)** 6

**III. NEGLIGENCE MAX 30 PTS**

- A. Was this an inadvertent violation which was unavoidable by the exercise of reasonable care? **IF SO - NO NEGLIGENCE;**  
OR Was this a failure of a permittee to prevent the occurrence of a violation due to indifference, lack of diligence, or lack of reasonable care, or the failure to abate any violation due to the same? **IF SO - NEGLIGENCE;**  
OR Was this violation the result of reckless, knowing, or intentional conduct? **IF SO - GREATER DEGREE OF FAULT THAN NEGLIGENCE.**

... No Negligence	0
... Negligence	1-15
... Greater Degree of Fault	16-30

STATE DEGREE OF NEGLIGENCE Ordinary

ASSIGN NEGLIGENCE POINTS 8

PROVIDE AN EXPLANATION OF POINTS

Lack of reasonable care in that the permit and the regulations called for the disturbed area boundaries to be appropriately marked. The Bear Canyon Mine MRP spells out clearly how this will be met, however, the operator was not complying with the regulation nor what was required in the mine plan.

**IV. GOOD FAITH MAX 20 PTS. (EITHER A or B) (Does not apply to violations requiring no abatement measures.)**

- A. Did the operator have onsite the resources necessary to achieve compliance of the violated standard within the permit area?  
... **IF SO - EASY ABATEMENT**  
Easy Abatement Situation  
... **Immediate Compliance -11 to -20\***  
... Immediately following the issuance of the NOV)  
... **Rapid Compliance -1 to -10\***  
... (Permittee used diligence to abate the violation)  
... **Normal Compliance 0**  
(Operator complied within the abatement period required)  
(Operator complied with conditions and/or terms of approved Mining and Reclamation Plan)

\* Assign in upper or lower half of range depending on abatement occurring in 1st or 2nd half of abatement period.

- B. Did the permittee not have the resources at hand to achieve compliance OR does the situation require the submission of plans prior to physical activity to achieve compliance?

... IF SO - DIFFICULT ABATEMENT

Difficult Abatement Situation

- ... **Rapid Compliance** -11 to -20\*
- ... (Permittee used diligence to abate the violation)
- ... **Normal Compliance** -1 to -10\*
- ... (Operator complied within the abatement period required)
- ... **Extended Compliance** 0
- (Permittee took minimal actions for abatement to stay within the limits of the NOV or the violated standard, or the plan submitted for abatement was incomplete)
- (Permittee complied with conditions and/or terms of approved Mining and Reclamation Plan)

EASY OR DIFFICULT ABATEMENT? \_\_\_\_\_ ASSIGN GOOD FAITH POINTS -10

PROVIDE AN EXPLANATION OF POINTS

The operator communicated to Mr. Malencik, DOGM employee, that the abatement work was completed by March 17, 1992.

V. ASSESSMENT SUMMARY FOR N92-40-6-1

I.	TOTAL HISTORY POINTS	<u>11</u>
II.	TOTAL SERIOUSNESS POINTS	<u>6</u>
III.	TOTAL NEGLIGENCE POINTS	<u>8</u>
IV.	TOTAL GOOD FAITH POINTS	<u>-10</u>
	TOTAL ASSESSED POINTS	<u>15</u>
	TOTAL ASSESSED FINE	<u>\$ 150.00</u>

jbe